

STAFF REPORT

DATE: May 22, 2008

TO: Arne Simonsen, Chair
Members of the Delta Protection Commission

FROM: Linda Fiack, Executive Director

SUBJECT: Findings and Analysis of the Delta Protection Commission (Commission)
Concerning Appeals Filed on November 3, 2007 by (1) Natural Resources
Defense Counsel and (2) The Concerned Citizens of Clarksburg, et al.

RECOMMENDED ACTIONS

- A. Receive and consider information from Commission staff and experts from the Department of Water Resources (DWR), U. S. Army Corps of Engineers (Corps) and the Federal Emergency Management Agency (FEMA) provided in response to Commission discussion and request on March 27, 2008;
- B. Receive Commission staff's recommended Findings and Analysis that the revised OSMSP is "not" consistent with Land Use Policy 4 of the Commission's Land Use and Resource Management Plan for the Primary Zone of the Delta (Resource Management Plan) and related provisions in the Delta Protection Act (Act);
- C. Receive Commission Member input and comments relative to consistency or inconsistency of the revised OSMSP with Land Use Policy 4 of the Resource Management Plan; and
- D. (1) Adopt the Findings and Analysis in this Staff Report, which conclude that the revised OSMSP is "not" consistent with Land Use Policy 4,

or

(2) Direct staff to return with amended Findings and Analysis reflecting Commission discussion for consideration at a subsequent meeting of the Commission noting that July 24, 2008 is the next regularly scheduled meeting of the Commission (June 26, 2008 is an adopted alternate meeting date).

REASON FOR RECOMMENDED ACTIONS

The recommended actions would comply with the Commission's direction to staff on March 27, 2008 and assure the Commission's compliance with its regulations and the Act by fulfilling its role as an appeal body when an action taken by a local entity on a development project in the Primary Zone of the Delta is appealed to the Commission by a third party.

BACKGROUND

On October 24, 2006, Yolo County approved the OSMSP. Subsequently, the actions taken by the County were appealed to the Commission by the Concerned Citizens of Clarksburg and Earth Justice (on behalf of NRDC) on November 3, 2006.

On November 16, 2006 the Commission determined that it has jurisdiction over the OSMSP because (1) it is located in the Primary Zone of the Delta, (2) it constitutes development, and (3) the filed appeals contain appealable issues.

On January 25, 2007, the Commission:

- (1) Received information relative to: the OSMSP approved by Yolo County on October 24, 2006; appeals filed by the Concerned Citizens of Clarksburg and Earth Justice (NRDC); and policies of the Commission's Management Plan;
- (2) Conducted a public hearing relative to consistency/inconsistency of the OSMSP with the policies of the Resource Management Plan cited in the Appeals;
- (3) Received Commission Member input and comments relative to consistency/inconsistency of the OSMSP with the policies of the Resource Management Plan;
- (4) Considered staff's recommended determination as to consistency/inconsistency of the OSMSP with Agriculture Policy 4, Land Use Policies 2, 3, 4 and 7, Utilities and Infrastructure Policy 3, Levees Policies 1, 2, 3, 4 and 5 and concluded inconsistency with Land Use Policies 3 and 4, and Levees Policy 3; and
- (5) Directed staff to return to the Commission on February 22, 2007 with recommended Findings for adoption as to consistency (Agriculture Policy 4, Land Use Policies 2 and 7, Utilities and Infrastructure Policy 3, and Levees Policies 1, 2, 4 and 5) or inconsistency (Land Use Policies 3 and 4, and Levees Policy 3) of the OSMSP with the policies of the Resource Management Plan cited in the Appeals pursuant to actions taken by the Commission.

On February 22, 2007 the Commission adopted Findings and Analysis setting forth that the OSMSP is: (1) Consistent with Agriculture Policy 4, Land Use Policies 2 and 7, Utilities and Infrastructure Policy 3, and Levees Policies 1, 2, 4 and 5; and (2) Not consistent with Land Use Policies 3 and 4, and Levees Policy 3 which resulted in Commission action to remand the matter to Yolo County for reconsideration.

Subsequent to the remand of the project the applicant requested consideration of a revised OSMSP. On March 11, 2008, Yolo County took actions to approve the revised OSMSP and

requested, at that time, that the Commission reconsider the OSMSP (as revised) as to consistency with the Commission's Resource Management Plan, particularly Land Use Policies 3 and 4, and Levees Policy 3.

On March 27, 2008 the Commission:

- A. Received and considered information provided by Commission staff relative to: (1) actions taken by Yolo County on March 11, 2008 to approve the OSMSP (as revised); (2) policies of the Commission's Resource Management Plan adopted February 23, 1995 pursuant to the Act; (3) Analysis and Findings adopted by the Commission on February 22, 2007 concerning appeals filed on November 3, 2006 by NRDC and the Concerned Citizens of Clarksburg, et al on the OSMSP approved by the County on October 24, 2006; (4) the hearing held by the Commission on January 25, 2007 on the appeals of actions taken by Yolo County on October 24, 2006; and (5) actions taken by the Commission on November 16, 2006 as to its jurisdiction over the matter.
- B. Conducted a public hearing (including testimony from Yolo County, project applicant, appellants, and the general public) regarding the revised OSMSP as to consistency or inconsistency with the policies of the Commission's Resource Management Plan, particularly Land Use Policies 3 and 4, and Levees Policy 3 (subject of remand of OSMSP to the County by the Commission on February 22, 2007).
- C. Received Commission staff's recommended Findings and Analysis that the revised OSMSP is not consistent with Land Use Policies 3 and 4, and Levees Policy 3 of the Resource Management Plan;
- D. Provided input and comments relative to consistency or inconsistency of the revised OSMSP with the policies of the Resource Management Plan, particularly Land Use Policies 3 and 4, and Levees Policy 3;
- E. Determined that the revised OSMSP is consistent with Land Use Policy 3 and not consistent with Levees Policy 3; and
- F. Directed Commission staff to return to the Commission on May 22, 2008 with formal Findings and Analysis of consistency of the revised OSMSP with Land Use Policy 3 of the Commission's Resource Management Plan and inconsistency of the revised OSMSP with Levees Policy 3 of the Commission's Resource Management Plan; and
- G. Directed staff to return to the Commission on May 22, 2008 with additional information (pursuant to Commission discussion) relevant to determining consistency or inconsistency of the revised OSMSP with Land Use Policy 4 of the Commission's Resource Management Plan, particularly (but not limited to): flood protection-related legislation; FEMA standards, and certification processes and timelines; relevant processes underway by DWR and the Corps; and relevant State housing mandates implemented by regional governments (SACOG).

Therefore, the Commission is: receiving information from Commission staff and staff from DWR, the Corps and FEMA; receiving Commission staff's recommended Findings and Analysis that the revised OSMSP is "not" consistent with Land Use Policy 4 of the Commission's Resource Management Plan and related provisions of the Act; receiving Commission Member input and comments on the subject matter; adopting Findings and Analysis that the revised OSMSP is "not" consistent with Land Use Policy 4, or directing staff to return with amended Findings and Analysis reflective of Commission discussion for consideration at a subsequent meeting of the Commission; and directing staff to return with formal Findings for adoption.

BACKGROUND INFORMATION

Legislation

The following is a summary of the information provided in the attached May 9, 2008, letter from Daniel L. Siegel to the Commission. For more details, please see the attached letter.

Commission staff has reviewed last year's flood protection measures, including Senate Bill 5, Assembly Bill 162 and Assembly Bill 70. The three flood protection bills reflect legislative policies concerning development in flood prone areas. While none of these measures contain any provisions that alter the Act, they may be considered relevant to the Commission's decisions concerning the OSMSP since they reflect legislative policies that the Commission, in its discretion, may take into account in interpreting its Resource Management Plan policies. A more detailed review of these bills is attached to this report. (See May 9, 2008 letter from Supervising Deputy Attorney General Daniel Siegel to the Commissioners.)

Senate Bill 5 is the most significant bill of the three in terms of indicating flood-related policies that are relevant to the Commission's review of the OSMSP. Three aspects of the legislation are particularly relevant. It will eventually require greater flood protection for urban and urbanizing areas than for non-urbanized areas; it contains a stricter limit on residential development than on other types of development; and it may reflect a policy of concentrating development and flood protection efforts on urban areas.

Assembly Bill 162 primarily seeks to have city and county general plans increase their consideration of flood risks. Of particular relevance to the OSMSP, it has a provision suggesting that housing should be directed away from flood-prone areas. In essence, State law has a process of determining the "fair share" distribution of housing needs through-out California. The allocation is based, in part on the availability of land suitable for urban development. Assembly Bill 162 allows regional entities that make those housing needs allocations to exclude certain lands that are prone to flooding. Specifically, it added the following provision to the statutory scheme: *The determination of available land suitable for urban development may exclude lands where FEMA or DWR has determined that the flood management infrastructure designed to protect the land is not adequate to avoid the risk of flooding.*

Assembly Bill 70 focuses on controlling State liability for its flood projects by requiring cities and counties to share flood damage liability with the State where the local entity unreasonably approved new development in an "undeveloped area" that is protected by a State flood protection

project. Undeveloped areas are defined as agricultural or open space areas that are not designated for development in general or specific plans or zoning ordinances as of January 1, 2008.

FEMA, Corps and DWR Studies:

Several efforts and studies are underway relative to flood protection standards in the area of the OSMSP. With the presentation of information by staff of DWR, FEMA and the Corps, Commission staff is bringing to the Commission's attention that several of the processes underway will not be completed until well into the future and therefore any reliability on the outcome of these processes as to the OSMSP and consistency or inconsistency with Land Use Policy 4 would be premature and unsubstantiated at this time.

Staff from FEMA and the Corps will provide an overview of the process currently underway relative to levee accreditation and FEMA mapping. The Map Modernization Program initiated by FEMA includes Yolo County and one or more of the levees relevant to the OSMSP (Reclamation District 999 levees, Deep Water Ship Channel levees west of Clarksburg, and Elk Slough). The process is due to a realization that many current accreditations may be based upon insufficient information and studies. The levee accreditation and remapping process is anticipated to take two years for completion. Where levees such as those relevant to the OSMSP are currently accredited (levees that are on an existing Flood Insurance Rate Map determined previously to provide one percent protection) and visually do not show evidence of "fatal flaws," they may be eligible for what is in essence a two year grace period. That interim provisional accreditation would require commitments from the County to enter into a Provisionally Accredited Levee Agreement.

The FEMA process will take into consideration current and anticipated future input from DWR, the Corps and the Central Valley Flood Authority, as well as information from other sources. DWR will provide the Commission with an overview of these sources of information and studies in process that are relevant to the OSMSP.

FINDINGS AND ANALYSIS

Land Use Policy 4 of the Commission's Resource Management Plan that the Commission found the OSMSP (approved by Yolo County on October 24, 2006) to be inconsistent with is provided below along with: (1) the basis of Finding of Inconsistency on February 22, 2007; (2) revisions to the OSMSP as provided in Yolo County's staff report as the basis for County approval on March 11, 2008; (3) Commission staff's recommended Findings of Inconsistency of the revised OSMSP with Land Use Policy 4; and (4) the basis for the Findings by staff recommended for Commission consideration.

Land Use Policy 4: New non-agricultural residential development, if needed, shall be located within the existing Primary Zone communities where support infrastructure and flood protection are already provided. (Cal. Code Regs., tit. 14, sec. 20060, subd.(d).)

Finding of Inconsistency Adopted by Commission on February 22, 2007:

The project involves new non-agricultural residential development in an area that has not been substantially documented with evidence of having support infrastructure and flood protection in place for such use.

Basis of Finding Adopted on February 22, 2007:

The inconsistency with Land Use Policy 4 is reinforced by reading that Policy along with Public Resources Code section 29765 which lists findings that local governments were required to make prior to the Commission's approval of local government general plan amendments under the Act. Although the section's provisions are not literally applicable, as the Commission has approved Yolo County's amendments, they show legislative intent as to what the Resource Management Plan should achieve, and therefore provide assistance in understanding that Plan's provisions. One finding required under section 29765 is "(f). The development will not expose the public to increased flood hazards."

The OSMSP (approved by Yolo County on October 24, 2006) proposed to convert land zoned heavy industrial to a mixed use that included up to 162 residences. These residences may be constructed even though levee improvements that may be required to provide adequate flood protection may not occur due to economic infeasibility. The project proponent is only required to perform improvements pursuant to the outcome of required studies. However, if the outcome of such studies requires improvements that are economically infeasible there are no assurances that the project proponent or any other entity would perform the needed improvements.

Flood protection for the project area is uncertain and may be below a 100-year level based on the following information: flood protection for the project area is provided by levees on the Sacramento River and Elk Slough; in 1990, the Clarksburg levees were certified and the area was designated as Zone B (commonly referred to as an area having 100-year flood protection) under FEMA Flood Insurance Risk Maps; a re-evaluation conducted after the 1997 flood determined the 100-year flood to be larger than the flood upon which the 1990 determination was based; and the criteria for levee stability and seepage has become more stringent since 1990.

Allowing up to 162 residences to be built within the project area prior to the re-certification of the levees for 100-year protection reduces the level of public health and safety in the area by increasing the number of people at risk of flooding and is inconsistent with Land Use Policy 4.

"Known" uncertainties should be taken into consideration relative to applicability over the life of the project. Although the project is located in an existing community, the adequacy of the flood protection for the community is in a state of uncertainty, i.e., FEMA remapping initiative (levee documentation review/decertification of undocumented levees) and FEMA/Corps Standards review; DWR mapping initiative (AB 142) and levee coring initiative (Propositions 1E/84); and pending flood protection legislation (SB 5, SB 6, SB 17, SB 59, AB 5, AB 236, AB 4, AB 70 and numerous spot bills).

Finally, there is insufficient evidence that 162 new residences in Clarksburg are needed. This number of units would more than double the size of Clarksburg. According to the August 2004 Draft Environmental Impact Report for this project, Clarksburg had 132 housing units as of 2001. (Draft OSMSP Program Environmental Impact Report, August 2004, p. 4.10-6). Significantly, according to that report, “the General Plan Housing Element predicts that an additional 27 housing units will be needed to house an additional 68 people by the year 2020.” (Ibid.)

Revisions in OSMSP (referenced in County staff report) as approved by County on March 11, 2008:

The number of residential units approved by Yolo County on March 11, 2008 has been reduced from 162 to 123. While the number of cluster and cottage homes remains approximately the same, the number of single-family units has been decreased. Yolo County has indicated that the resulting neighborhood will be developed with a similar number of units per acre as more traditional areas within historic Clarksburg.

While the October 24, 2006 approval by Yolo County required homes to be elevated a maximum of five feet, the revised OSMSP provides for homes to be elevated one foot above the base flood elevation “at the time that building permits are issued.” The new base flood elevation will either be derived from new FEMA maps, if available at the time of building permit applications, or will be based on an engineering study performed in accordance with Yolo County’s Flood Damage Prevention Ordinance and a related mitigation measure. Yolo County has indicated that it is “likely” that living areas in all residential units would be elevated an estimated 8 to 11 feet, with storage area located on the first floor. It is the “intent” of Yolo County to consult with all appropriate state and federal agencies to ensure that the best available information is used in determining the base flood elevation.

The approval of the revised OSMSP reduces the period required for the developer to maintain flood insurance on individual private homes within the OSMSP from four years to two years for market rate homes and from ten years to five years for affordable homes.

Finding Recommended for Commission Adoption: NOT CONSISTENT.

Weighing the evidence before it, the Commission determines that, on balance, this project still contains far more housing than is needed in Clarksburg, and, in addition, that there is insufficient evidence that adequate flood protection is already provided for the new housing. As such, the revised OSMSP approved by Yolo County on March 11, 2008 is not consistent with Land Use Policy 4.

Basis for Recommended Finding of Inconsistency:

While the number of homes has been reduced in the revised OSMSP, there is still insufficient evidence that even the reduced number of 123 residential units is “needed.” To the contrary, the evidence indicates that the local housing need is far below that level. Notably, the August 2004 Draft Environmental Impact Report for the OSMSP approved by Yolo County on October 24,

2006, explains that Yolo County's "General Plan Housing Element predicts that an additional 27 housing units will be needed in Clarksburg to house an additional 68 people by the year 2020." (Draft OSMSP Program Environmental Impact Report, August 2004, p. 4.10-6.) The County asserts that the 27 local housing unit need prediction may not be accurate. It points to the Clarksburg General Plan (which is the original source of the 27 unit need projection), and notes two other statements in that plan: that "the total population holding capacity of the town area is expected to increase" due to potential residential development on the OSMSP site, and that "the adopted 1.8 percent growth rate may be increased for Specific Plan Area A [the OSMSP site]." (See May 6, 2008, letter from Yolo County Senior Deputy County Counsel Philip J. Pogledich to the Commission, p.5.) Those statements, however, do not override the need predictions. Rather, they indicate that Yolo County was likely to create housing capacity beyond that needed by the local community. Given Clarksburg's attractive rural atmosphere and close location to downtown Sacramento, new housing beyond that needed for the Clarksburg area would likely find many buyers from the greater Sacramento area.

Moreover, the 27 units need prediction is consistent with the most recent "fair share" housing determinations for the unincorporated portion of Yolo County. State law requires the California Department of Housing and Community Development to "determine the existing and projected need for housing for each region" in California. (Gov. Code § 65584(a)(1).) The Department has determined that the housing need for the region covered by the Sacramento Area Council of Governments (SACOG), which includes Yolo County, would be 118,652 housing units for January 1, 2006 through June 30, 2013. (See SACOG's 2006 to 2013 Regional Housing Needs Plan, adopted February 21, 2008, at p. 1, available at www.sacog.org/rhnp/rhna.cfm.) State law further requires regional entities such as SACOG to adopt a plan allocating those housing needs throughout the region. (Gov. Code § 65584.05(h).) On February 21, 2008, SACOG adopted such a plan. SACOG's Regional Housing Needs Plan determined that the unincorporated portions of Yolo County had 8490 housing units in 2005, and will need an additional 1,402 units by 2013 to achieve its fair share contribution towards meeting regional housing needs. (See Table 1 of that plan.) That amounts to a 16.5% increase. For Clarksburg, a 16.5% increase over the current housing level of 132 (in 2001 – the latest figure available) would be 22 units.

The Commission has also taken into account County testimony indicating that additional housing might be needed due to the creation of "up to 600" new jobs by the non-residential portions of the project. Elsewhere, however, the County has indicated that the number of new jobs would be significantly lower. Specifically, the August 2004 Draft Old Sugar Mill Specific Plan Program Environmental Impact Report, in describing elements of the project that may create adverse secondary environmental impacts, states that "dozens of new jobs could be created in the project's industrial, commercial, and office developments." (See p. 4.10-9 of that document; emphasis added.) In addition, there is little evidence indicating that the wages paid by new jobs would provide sufficient income to purchase the project's new homes. To the contrary, it appears that most of the project's new housing would be costly, especially given Clarksburg's rural ambience and close location to downtown Sacramento. Finally, Clarksburg is located near areas outside of the primary zone that are slated for extensive new housing developments, such as West Sacramento. Regional housing needs can likely be met by these projects, thereby avoiding extensive development within the primary zone. The Commission therefore concludes that OSMSP's 123 additional residential units are not needed.

In addition to not meeting the need requirement, there is still insufficient evidence that this project meets the requirement that adequate flood protection already exist for the new housing.¹ The uncertainties that were raised at the Commission's February 22, 2007 hearing concerning potential flood hazard impacts to public health and safety along the Sacramento River, including at Clarksburg, continue to exist. Sources confirming these uncertainties include the California Department of Water Resources, U. S. Army Corps of Engineers, and the California Central Valley Flood Protection Board. Uncertainties are also reflected in recent legislation that includes Senate Bill 5 (Machado – Flood Management) and Assembly Bill 5 (Wolk – Flood Management).

The potential loss of FEMA accreditation for the area protected by the levees at the project site, which Commission staff learned about from staff of the Department of Water Resources, affirms that increased development without first addressing levee integrity has significant potential to put public health and safety at risk. Given this flood hazard uncertainty, and its potential threat to public health and safety in flood prone areas, the revised OSMSP should but does not address infrastructure inadequacy, overtopping (flood stage), under seepage, or influences such as climate change and sea level rise.²

¹ This policy should be read in harmony with Public Resources Code sections 29763.5 and 29765. Although those sections are not literally applicable, the first lists findings that the Commission must make before determining that proposed general plan amendments are consistent with the Act, and they express legislative intent as to the purposes of the Act, the Management Plan and conforming local general plan provisions. One of the findings required by section 29763.5 is as follows: "(g) The general plan, and any development approved or proposed that is consistent with the general plan, will not expose the public to increased flood hazard." Similarly, section 29765 lists findings that a local government must make where the Commission has adopted its Management Plan or amendments to that Plan, but (1) a local government has not yet, pursuant to section 29763, submitted to the Commission general plan amendments that would bring their plans into conformity with the Commission's Plan or (2) a local government has submitted those amendments to the Commission, but the Commission has not approved the amendments. (The Commission adopted its Management Plan on February 23, 1995. It has only adopted one amendment; that amendment became operative on February 27, 1997.) Section 29765 findings include the following: "(f) The development will not expose the public to increased flood hazards."

² Yolo County appears to assert that an interim trial court ruling, issued subsequent to the Commission's remand of this matter to the County, calls into question the use of global warming concerns in evaluating flood risks of the OSMSP. (See p. 13 of the findings attached to the County's March 11, 2008, resubmission of this matter to the Commission.) Specifically, the County cites an April 30, 2007, decision issued by the Sacramento County Superior Court in *Natural Resources Defense Council v. Reclamation Board*. (Because the case settled, the decision never became an official judgment.) That case included the question of whether, under the California Environmental Quality Act (CEQA), new global warming information required the Reclamation Board to revise a particular environmental impact report. The trial court concluded that the Reclamation Board could use the report because it already took climate change into account. The trial court found that, given the deference the court was required to give the Board, NRDC failed to meet its high burden of proving that new global warming information was sufficient to require additional environmental review. The court did not conclude that climate change should be excluded from consideration in evaluating a project's environmental impacts. It emphasized that "[t]his ruling is a narrow one, and is not a ruling that the effects of potential changes in climate are not a proper subject for consideration under CEQA."

A copy of the written tentative decision in that case, which was not subsequently altered, has been included in the administrative record.

Examples of seepage from the water side of the levees in the Delta to the landside of the levees are found throughout the Delta. Earlier this month, Commission staff viewed 2 deep sink holes on Grand Island with water flowing. They were located hundreds of feet from the landside of the levee, and we were informed that they have been there for years. In another example observed by Commission staff, there was water flowing in a deep farm ditch before the irrigation season started. The ditch was parallel to and approximately 400 feet away from the levee. In a third example, a large swath of cattails (which are wetland plants) were observed by staff in a farm field hundreds of feet behind the levee along Steamboat Slough. All of these are examples of river water seeping through or under Delta levees.

In addition, in reaching its finding, the Commission has given significant weight to Yolo County's acknowledgments of flood dangers. The Environmental Impact Report Addendum for the revised OSMSP, certified by the Yolo County Board of Supervisors on March 11, 2008, finds that the project will expose people and structures to potentially significant and unavoidable risk from flooding. Specifically, it describes "Impact 4.7.7" as follows:

Levee Failure—Implementation of the project may expose people and new structures to a significant risk of loss, injury, or death from deep flooding as a result of a potential levee failure. This impact is potentially significant and unavoidable.

(Old Sugar Mill Specific Plan EIR Addendum, p. 16 [citing previously identified impacts in the OSMSP Final EIR].)

The Addendum goes on to describe the new elevation requirement for residential units, and then concludes:

Despite the foregoing, uncertainty continues to surround the issue of levee stability and related flood risks. Accordingly, while the revisions to Mitigation Measure 4.7.7a increase the safety of future Project structures and residents, the County conservatively continues to consider this impact significant and unavoidable.

(Old Sugar Mill Specific Plan EIR Addendum, p. 19.)

The Addendum also concludes that another "potentially significant" impact of the project is its "potential for adverse effect . . . on the adjacent levees."³ (Old Sugar Mill Specific Plan EIR Addendum, p. 16 [citing previously identified impacts in the OSMSP Final EIR].) It goes on to state that "certain changes . . . provide further assurance that any geotechnical evaluation" will be

³ The full statement is as follows:

Impact 4.7.8 Levee Encroachment—Implementation of the project may impede or preclude the ability to properly maintain and improve the levees, and may impede or preclude the ability to respond in a flood emergency. The potential for adverse effect from the project on the adjacent levees is potentially significant.

adequate, but it does not withdraw the “potentially significant” impacts conclusion. (Old Sugar Mill Specific Plan EIR Addendum, p. 20.)

Weighing the evidence before it, the Commission therefore concludes that this project still contains far more housing than is needed in Clarksburg, and, in addition, that there is still insufficient evidence that adequate flood protection is already provided for the new housing.

Attachments:

- A. [February 22, 2007 Commission staff report](#)
- B. [March 27, 2008 Commission staff report](#)
- C. [May 9, 2008 Letter from Supervising Deputy Attorney General Daniel Siegel to the Commissioners](#)